

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2003-093245

08/12/2003

HON ROBERT H. OBERBILLIG

CLERK OF THE COURT
K. Stone
Deputy

IN RE THE MARRIAGE OF
TARA SMITH

FILED: 08/18/2003

TARA SMITH
1342 W. EMERALD AVE
APT 279
MESA AZ 85202

AND

TOD A SMITH

TOD A SMITH
1350 OLD LULING RD
LOCKHART TX 78644

CONCILIATION SERVICES-SE
SUPPORT SERVICES-SE
TASC - MESA

MINUTE ENTRY

10:11 A.M. This is the time set for hearing on Petitioner's Petition for Emergency Temporary Order. Petitioner/Mother, Tara Smith, is present on her own behalf. Respondent/Father, Tod A. Smith, is present on his own behalf.

A record of the proceeding is made by videotape and CD in lieu of a court reporter.

Tara Smith and Tod A. Smith are sworn and testify.

Discussion is held.

Judy Nicholson is sworn and testifies.

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LET THE RECORD REFLECT for purposes of calculating child support Mother's gross monthly income is \$1,733.00 and Father's gross monthly income is \$4,167.00.

IT IS ORDERED, on a temporary basis:

1. Mother shall be the primary residential parent for the parties' minor children, Kayleigh (DOB: 5/24/95) and Tod (DOB: 8/30/96).
2. Father shall have parenting time with the children one weekend a month from Friday after school until Sunday at 7:00 P.M. If the Monday after Father's weekend is a holiday, Father's parenting time shall extend to Tuesday morning when he shall deliver the children to school.
3. Father shall choose the weekend he wishes to exercise parenting time and shall give Mother no less than 15 days advance notice of the weekend he chooses.
4. Father shall pay all costs associated with his parenting time.
5. Father's parenting time shall be exercised in Maricopa County only.
6. Beginning September 1, 2003, Father shall pay child support to Mother of \$902.00 a month pursuant to the Guideline child support worksheet filed herein. Because Father is self-employed, an Order of Assignment is not entered.

Father shall mail the child support payments to the **Support Payment Clearinghouse, P. O. Box 52107, Phoenix, Arizona 85072-2107**. The payment should show the case number and/or ATLAS case number and the name of the party paying support and the name of the party who will receive the payment.

If payments are made directly to the person who is to receive the support, the payments may be considered a gift and no credit will be given towards the support obligation.

Any change in the paying party's employment and any change in the residential address of either party **must** be submitted to the Clerk's Office, in writing, within ten (10) days of the change (A.R.S. 25-322(C)). Failure to notify the Clerk's Office of any change may be considered contempt of Court.

Arizona Revised Statutes Section 25-503(I) states that, with certain exceptions, an unpaid child support judgment that became a judgment by operation of law (this means that it became a judgment when it was due and unpaid) expires three years after the emancipation of the last remaining unemancipated child who was included in the court order unless it is reduced to a

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formal written judgment by the court. An Obligee must apply in writing to the court to obtain a formal written judgment.

LET THE RECORD REFLECT Father has requested Mother to have a psychological evaluation. Mother states she has no objection to this request and will have the evaluation conducted as soon as possible.

IT IS ORDERED referring this matter to Conciliation Services:

1. For mediation of child custody and/or parenting time issues, if appropriate;
2. For dispute assessment, if necessary;
3. Or for any other service(s) deemed advisable by Conciliation Services.

The mediation is set for **SEPTEMBER 18, 2003 AT 8:00 A.M.** Father may appear telephonically at mediation by calling Conciliation Services at 602-506-2300 at 8:15 A.M., Arizona time. The parties are instructed to go to Conciliation Services at the conclusion of this hearing to complete the necessary paperwork.

The parties shall comply with all instructions and directives issued by Conciliation Services.

IT IS ORDERED:

1. Petitioner and Respondent shall participate in drug testing through TASC. The parties shall be tested for the full spectrum of drugs.
2. Petitioner and Respondent shall report before 6:00 p.m. today to TASC, located at 423 N. Country Club Drive, Suite 19, Mesa, or at 2234 North Seventh Street, Phoenix, or at 5955 West Myrtle Avenue, Suites 2-4, in Glendale. A photo I.D. must be presented.
3. Petitioner and Respondent shall present to TASC the Substance Abuse Testing Order issued by the Court and shall provide the information necessary to complete the form.
4. Petitioner and Respondent shall sign and deliver the consent and authorization forms required by TASC.
5. Petitioner and Respondent shall pay the costs of testing in cash, money order or cashier's check at the time of testing.

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6. Petitioner shall report for subsequent random drug testing as directed by TASC and must present a photo I.D. each time, along with any prescription medications currently being taken. Use of over the counter medications must also be disclosed.

Because Respondent resides out of state, he shall report for subsequent random testing at a testing facility comparable to TASC. The results of the drug screenings shall be mailed to this Court.

7. Petitioner and Respondent shall submit to random drug testing and provide samples as required not less than two times a month beginning immediately. Testing shall continue until further order of the Court.

8. The testing facilities shall report the results of the tests in writing to the Court with copies provided to counsel for both parties, or directly to the parties if they are unrepresented. Test results are not confidential. They will be filed in the Court file.

9. The failure, neglect, or refusal to participate in testing may be considered an admission that the test, if conducted, would have revealed the use of an illegal substance. A diluted test specimen may be considered an attempt to conceal the presence of illicit drugs. Any failed test later claimed to be due to undisclosed medications will be deemed a failed test.

10. A failure to comply with this order may result in a finding of contempt. Sanctions could include issuance of an arrest warrant and incarceration.

IT IS ORDERED setting this matter for trial on **DECEMBER 8, 2003 AT 1:30 P.M.** before the Honorable Robert Oberbillig, Courtroom 206, Southeast, 222 East Javelina Drive, Mesa, Arizona. Time allotted: 3 hours.

THE PARTIES MUST READ AND FOLLOW
ALL INSTRUCTIONS SET FORTH BELOW

IF ONLY ONE PARTY APPEARS AT ANY COURT HEARING, THE COURT MAY ENTER A DEFAULT AGAINST THE ABSENT PARTY, AND ALLOW THE PARTY THAT APPEARS TO PROCEED BY DEFAULT. IF BOTH PARTIES FAIL TO APPEAR, THE ACTION MAY BE DISMISSED.

Parent Education Program

IT IS ORDERED that in the event the parties have a natural or an adopted minor, unemancipated child in common, both parties shall have completed an approved Parent Education Program in accordance with A.R.S. Section 25-351 et seq. prior to the trial, and file proof thereof prior to or at the time of trial. IF NEITHER PARTY HAS COMPLETED THE

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PARENT EDUCATION PROGRAM PRIOR TO THE TRIAL, THE COURT MAY VACATE THE TRIAL AND REQUIRE COMPLIANCE PRIOR TO PROCEEDING.

Pre-Trial Statement and Instructions

IT IS ORDERED the parties shall meet (if an Order of Protection is not currently in effect) and prepare a **Joint** Pretrial Statement, filing the original with the Clerk of the Court and providing a copy to this division at least three days before the trial. The Joint Pretrial Statement shall state:

1. The details of all agreements reached by the parties on all substantive and procedural issues.
2. The date each parent filed with the court proof of compliance with the Parental Education Program requirements of A.R.S. Section 25-351 et seq., or a declaration that each parent who has not completed such requirements will file such proof of compliance to or at the time of the trial.
3. To assist the Court in determining the reasonableness of each party's positions in any subsequent requests for attorney's fees pursuant to A.R.S. 25-324 and 12-349, each party shall set forth a brief statement of his or her position on each remaining contested issue. This statement shall not include the reasons why the party is taking the position, but simply the position on each contested issue.
4. Specific proposals by the party on how the remaining contested issues can be resolved or narrowed without trial including requests for testing, evaluation, or appraisal and the utilization of any appropriate Alternative Dispute Resolution (ADR) procedures.
5. All remaining discovery and disclosure which needs to be completed prior to trial.

IT IS ORDERED that each party shall attach to the Joint Pretrial Statement and bring to the trial:

1. An affidavit of current financial circumstances pursuant to Rule 6.4(b), Local Rules of Maricopa County; and
2. If there are disputed personal and real property issues, a current and detailed inventory and appraisal of the property and assets of the parties, unless one was filed within the last 12 months; and

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3. If there are disputed custody and child support issues, the Joint Pretrial Statement shall include a Child Support Worksheet completed pursuant to the Statewide Child Support Guidelines, unless one was filed within the last 12 months.

IF EITHER PARTY DOES NOT PARTICIPATE IN THE PREPARATION OF A JOINT PRETRIAL STATEMENT OR FAILS TO PROVIDE A POSITION STATEMENT ON A CONTESTED ISSUE, THE COURT MAY IMPOSE ANY AND ALL SANCTIONS ALLOWED BY RULES 16(f), 37(b)(2)(B)(C) OR (D), ARIZONA RULES OF CIVIL PROCEDURE.

EXHIBITS

IT IS ORDERED that, if either party has more than five exhibits to be marked, arrangements shall be made with the Clerk of this Division at least three days prior to trial to schedule a time to deliver said exhibits to the Clerk. Duplicate exhibits shall not be presented. The parties shall also provide the Court and the adverse party with a separate copy of all exhibits.

IT IS ORDERED that the parties shall indicate in the Joint Pretrial Statement which exhibits they have agreed will be admissible at trial as well as any specific objections that will be made to any exhibit if offered at trial which is not agreed to be admitted. Reserving all objections to the time of trial will not be permitted. At the time of trial all exhibits which the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Joint Pretrial Statement shall be summarily admitted.

FINDINGS OF FACT

IT IS ORDERED that any party filing a request for findings of fact and conclusions of law pursuant to Rule 52, Arizona Rules of Civil Procedure, **shall submit proposed findings of fact and conclusions of law to this Division no later than 30 days prior to trial.** Any controverting findings of fact and conclusions of law proposed by the adverse party shall then be submitted no later than ten days prior to trial.

SETTLEMENT

Counsel and the parties are reminded of their obligation to give prompt notice of any settlement to the Court in accordance with Rule XII(b), Uniform Rules of Practice, and Maricopa County Local Rules 2.10(b) and 3.6(c).

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The Court notes that if Respondent fails to appear at trial, default judgment may be entered against him or her and/or the matter may proceed at that time to trial or to a default judgment hearing under Rule 55(b)(2).

10:54 A.M. Hearing concludes.

IT IS ORDERED the requirements of Rule 58(d) are waived and this minute entry is signed as the order of the Court.

DATED the 12th day of August, 2003.

/S/ HON ROBERT H. OBERBILLIG

JUDICIAL OFFICER OF THE SUPERIOR COURT

**PLEASE NOTE: IMPORTANT INFORMATION RE: CD/VIDEOTAPE
FEE CURRENTLY IN EFFECT**

This is a JAVS courtroom. All CDs and videotapes will be provided by the Court, regardless of when the copies are made. A fee of \$20.00 will apply to all copies requested, either on the day of the hearing or for hearings recorded on an earlier date. Forms to request a recording of a proceeding are available in the Self-Service Centers and in the JAVS and FTR courtrooms.

A person requesting a daily copy CD or videotape must complete the appropriate request form and pay the applicable fee at the Self-Service Center. Upon payment of the appropriate fees through the Self-Service Center, a receipt will be issued which shall then be presented to Court staff for preparation of the CD or videotape in the customary manner.

A person wanting a copy of a hearing from a previous occasion must contact Ken Crenshaw at 602-506-7100.

NOTICE: A child should not be brought to the Courthouse to be present during a court proceeding except in the circumstance that the child is to be interviewed by the Judge in chambers or unless the child's presence is otherwise required for the court proceeding. Whenever a child is brought to the Courthouse, it is the responsibility of the party who brings the child to arrange for appropriate care and supervision of the child outside of the courtroom and judicial offices. The duties of Court personnel do not permit them to perform this function.

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